

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |           |
|---------------------------|---|-----------|
| UNITED STATES OF AMERICA, | ) |           |
|                           | ) | 8:01CR113 |
| Plaintiff,                | ) |           |
|                           | ) |           |
| v.                        | ) |           |
|                           | ) | ORDER     |
| DAMIEN WELLS,             | ) |           |
|                           | ) |           |
| Defendant.                | ) |           |
| _____                     | ) |           |

This matter is before the court on defendant's motion to reduce sentence under the 2011 crack cocaine guidelines. Filing No. 172. Subsequent to the filing of the motion, the court ordered the Federal Public Defendant to represent the defendant on this issue. Filing No. 173. Thereafter, counsel for the defendant moved to withdraw on the basis that defendant was sentenced to the applicable mandatory minimum sentence, and thus not entitled to relief. Filing No. 175. The court granted counsel's motion to withdraw. Filing No. 176. The court granted defendant until February 13, 2012, to show this court why his motion to reduce sentence, Filing No. 172, should not be dismissed. Filing No. 177. The defendant has now filed a response, Filing No. 178, as a motion to amend the original motion. The court has carefully reviewed Filing No. 178 and finds it is without merit. The court concludes that the defendant is in fact subject to the applicable mandatory minimum sentence, and thus he would not be entitled to any relief under the 2011 crack cocaine guidelines. Accordingly, the court is of the opinion that defendant's motion to reduce his sentence under the 2011 crack cocaine guidelines, Filing No. 172, is without merit and should be dismissed.

IT IS ORDERED:

1. Defendant's motion to reduce sentence, Filing No. 172, is denied.
2. Defendant's motion to amend, Filing No. 178, is likewise denied.

DATED this 24<sup>th</sup> day of January, 2012.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge